

KENNETH DANTE MURENA

ATTORNEY PROFILE



Mr. Murena is a Federal Court-appointed Receiver, Receiver's counsel, and business litigator with extensive experience in both Federal and State Court, at the trial and appellate levels. He has spent most of his career representing Federal and State Court-appointed Receivers, Monitors, Distribution Agents and other fiduciaries, as well as defrauded investors, in government enforcement actions brought by the SEC, CFTC and FTC based on securities, commodities and consumer fraud, and in asset recovery litigation and class actions arising therefrom. Mr. Murena also represents individuals, small businesses, and public companies in litigation matters involving fraud, business torts, secured transactions, and real property.

Mr. Murena also routinely represents Trustees in Bankruptcy cases and adversary proceedings and has represented a broad range of interests in Bankruptcy Court, including Liquidating Trustees, Creditors Committees, individual and corporate creditors, including financial institutions and private lenders, and corporate debtors-in-possession in Chapter 11 reorganizations and liquidations. In addition,

Mr. Murena has significant experience in Assignment for the Benefit of Creditors proceedings, in which he serves as the Fiduciary, charged with operating, winding down or selling a going concern, liquidating assets and distributing proceeds to creditors, as counsel for the subject company of the assignment proceeding, or as counsel to the party seeking to purchase the subject company or its assets in the assignment proceeding.

After graduating from law school in 1998, Mr. Murena served as the Law Clerk to Honorable Paul G. Hyman, Jr., United States Bankruptcy Judge for the Southern District of Florida. Subsequently, he joined a prominent Miami-based law firm and focused his practice on complex commercial litigation, receiverships and bankruptcy.

Mr. Murena was admitted to the Florida Bar in 1998 and is licensed to practice in all state and federal courts in Florida and the United States Courts of Appeals for the Third and Eleventh Circuits. Mr. Murena received his law degree from the University of Florida College of Law (J.D., 1998), where he served as the Senior Articles Editor for the Florida Law Review. He received his undergraduate degree from the University of Florida College of Liberal Arts & Sciences (B.A., with honors, Phi Beta Kappa, 1995), graduating in the top 1% of his class.

PROFILE AT A GLANCE

POSITION: Partner

PRACTICE AREAS

- Receivership & Other Fiduciary Services
- Business & Commercial Fraud Litigation
- Securities, Commodities & Consumer Fraud Litigation
- Bankruptcy & Creditors' Rights

ADMITTED TO PRACTICE

- The Florida Bar (1998)
- The United States District Courts for Southern, Middle & Northern Districts of Florida (1999)
- The United States Courts of Appeals for the Third & Eleventh Circuits (2001)

PROFESSIONAL & COMMUNITY ORGANIZATIONS

- The Florida Bar: Business Law Section - Bankruptcy and UCC Committee
- National Association of Federal Equity Receivers: Regulatory Sub-Committee Co-Chair
- Federal Bar Association
- American Bankruptcy Institute: Commercial Fraud Committee - Special Projects Director
- Bankruptcy Bar Association
- Dade County Bar Association: Federal Courts Committee
- Educate Tomorrow
- Friends of New World Symphony

ACKNOWLEDGEMENTS

- AV Preeminent® Rated by Martindale-Hubbell®
- Best Lawyers in America (2018)
- Florida Trend - Florida Legal Elite (2009)
- Florida Super Lawyers (2010)

PUBLICATIONS

- Contributing Author (2015). Fraud and Forensics: Piercing Through the Deception in a Commercial Fraud Case. Alexandria, VA: American Bankruptcy Institute.
- Litigating Commercial Cases in Bankruptcy Court, Chapter 19, Business Litigation In Florida, (9th ed. 2017).
- The Dodd-Frank Act, the CFTC's Crackdown on Off-Exchange Financed Commodity Transactions, and the Role of the Court-Appointed Fiduciary, THE RECEIVER (Issue 2, Sept. 2013).

EDUCATION

- University of Florida College of Law (J.D., Law Review, 1998)
- Georgetown University Law Center - International Law Program (Summer 1997)
- University of Florida College of Liberal Arts & Sciences (B.A., with honors, Phi Beta Kappa, 1995)

EXHIBIT
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NOTABLE RECEIVERSHIP & OTHER FIDUCIARY CASES

FEDERAL COURT RECEIVERSHIPS AND MONITORSHIPS

- *U.S. Commodity Futures Trading Commission v. Jason B. Scharf, et al.*, Case No. 17-cv-774-J-32MCR, U.S. District Court for the Middle District of Florida (www.BinaryOptionsReceivership.com)
- *U.S. Securities and Exchange Commission v. Onix Capital LLC, et al.*, Case No. 16-CV-24678-COOKE/TORRES, U.S. District Court for the Southern District of Florida, (www.OnixReceivership.com)
- *U.S. Federal Trade Commission v. Consumer Collection Advocates, et al.*, Case No. 14-62491-CIV-BLOOM, U.S. District Court for the Southern District of Florida, (www.ccareceivership.com)
- *U.S. Commodity Futures Trading Commission v. Worth Group, Inc., et al.*, (Case No. 9:13-cv-80796-KLR), U.S. District Court for the Southern District of Florida (www.worthmonitor.com) (\$30 million commodities fraud investigation)
- *U.S. Securities and Exchange Commission v. We the People Inc., of the United States* (Case No. 2:13-cv-14050-JEM), U.S. District Court for the Southern District of Florida (www.wethepeoplereceivership.com) (\$75 million securities fraud investigation)
- *U.S. Commodity Futures Trading Commission v. Hunter Wise Commodities, LLC, et al.* (Case No. 9:12-cv-81311-DMM), U.S. District Court for the Southern District of Florida (www.hunterwisemanager.com) (\$150 million commodities fraud investigation)
- *U.S. Securities and Exchange Commission v. Aubrey Lee Price, et al.* (Case No. 1:12-cv-2296-TCB), U.S. District Court for the Northern District of Georgia (www.pfgreceivership.com) (\$55 million securities fraud)
- *U.S. Securities and Exchange Commission v. Marc Roup, et al.* (Case No. 09-CD-01685), in the U.S. District Court for the Western District of Pennsylvania (\$5 million securities fraud)
- *U.S. Securities and Exchange Commission v. Sean Nathan Healy, et al.* (Case No. 09-CV-1130), U.S. District Court for the Middle District of Pennsylvania (www.healyreceivership.com) (\$18 million securities fraud)
- *U.S. Commodity Futures Trading Commission v. Sean Nathan Healy, et al.* (Case No. 09-CV-1331), U.S. District Court for the Middle District of Pennsylvania (www.healyreceivership.com) (\$18 million commodities fraud)
- *U.S. Securities and Exchange Commission v. Charles O. Morgan, as Personal Representative of the Estate of Frederick J. Kunen* (Case No. 07-22204-CIV-Gold/Turnoff), U.S. District Court for the Southern District of Florida (www.optionstradingfraud.com) (\$15 million securities fraud)
- *U.S. Securities and Exchange Commission v. Terry E. Provence and DT Capital, LLC* (Case No. 07-23167-Gold/Turnoff), U.S. District Court for the Southern District of Florida (www.optionstradingfraud.com) (\$15 million securities fraud)
- *U.S. Securities and Exchange Commission v. Viatical Capital, Inc., et al.* (Case No. 03-CV-1895-T-23-TGW), U.S. District Court for the Middle District of Florida (www.lifereceivership.com) (\$50 million securities fraud)
- *U.S. Securities and Exchange Commission v. Pension Fund of America, L.C., et al.* (Case No. 05-20863-CIV-Moore), U.S. District Court for the Southern District of Florida (www.pfareceivership.com) (\$75 million securities fraud)

STATE COURT RECEIVERSHIPS

- *State of Florida Office of Financial Regulations v. Robert Kurland Mortgage Co., Inc.*, Case No. 05-11974 CA 30, Eleventh Judicial Circuit in and for Miami-Dade County, Florida
- *Julieta Spenzi v. Joseph Green*, Case No. 13-025945-FC-04, Eleventh Judicial Circuit in and for Miami-Dade County, Florida
- *Benjany Viera v. Klever Ontaneda*, Case No. 12-5693-FC-04, Eleventh Judicial Circuit in and for Miami-Dade County, Florida
- *Fannie Mae v. Residences at 107 Ave., Inc.*, (Case No. 11-14926 CA 32), Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
- *Marimon v. Marimon* (Case No. 11-4696 FC 04), Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
- *BAC Florida Bank, a Florida Chartered Bank v. 1910 Island LLC, et al.* (Case No. 09-59348 CA 02), Eleventh Judicial Circuit Court in and Miami-Dade County, Florida
- *U.S. Mortgage Finance II, LLC v. 3079 Aventura Lakes, LLC* (Case No. 09-59337 CA 13), Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
- *U.S. Mortgage Finance II, LLC v. 1406 Mystic Point, LLC* (Case No. 09-59351 CA 13), Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida
- *Amanecer Investment Company, LLC v. Amanecer Christian Network, Inc., et al.* (Case No. 05-11974 CA 30), Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida

ADDITIONAL EXPERIENCE

BANKRUPTCY & CREDITORS' RIGHTS

Trustees: Mr. Murena represents court-appointed Chapter 7 and Chapter 11 bankruptcy trustees and liquidating trustees in corporate liquidations and reorganizations in bankruptcy court.

Creditors' Rights: Mr. Murena represents various creditor interests in Chapter 11 reorganizations and converted liquidations, including individual creditors, corporate creditors, banks and other lending institutions, private lenders, and corporate landlords seeking to enforce their rights and recover from debtors pursuant to multi-million dollar debts. *See, e.g., E.S. Bankest, LLC v. United Beverage Florida, LLC* (In re United Container, LLC), 284 B.R. 162 (Bankr. S.D. Fla. 2002).

Debtor Reorganization: Mr. Murena has represented individual and corporate debtors-in-possession, including national and international corporations and real estate developers, in Chapter 11 reorganizations involving tens of millions of dollars in debt.

ASSIGNMENTS FOR THE BENEFIT OF CREDITORS

Mr. Murena serves as the Fiduciary in Assignment for the Benefit of Creditors (ABC) state court proceedings involving companies seeking to sell their businesses as going concerns or liquidate their assets and inventory and wind down their operations. Mr. Murena also represents the companies that are the subject of the ABC proceedings and the individuals or companies who endeavor to purchase those companies and/or their assets in the ABC proceedings.

LITIGATION & APPEALS

Mr. Murena has extensive experience handling a broad range of litigation matters in U.S. District Courts, U.S. Bankruptcy Courts, and State Circuit Courts throughout Florida. He routinely represents federal and state court-appointed equity receivers in fraud and other litigation matters arising from private civil actions and government enforcement actions and related receiverships. Mr. Murena has represented class representatives in class actions arising from federal equity receivership and defendants in enforcement actions brought by the Securities & Exchange Commission, the Commodity Futures Trading Commission and the Federal Trade Commission. He has also represented individual and corporate creditors in various bankruptcy litigation matters. Mr. Murena has significant litigation and trial experience representing individual and corporate plaintiffs and defendants in fraudulent transfer actions, alter-ego/piercing-the-corporate veil actions, successor liability actions, and actions seeking injunctive and declaratory relief. *See, e.g., Harbaugh v. Greslin, et al.*, 436 F. Supp. 2d 1315 (S.D. Fla. 2006), *aff'd* 218 Fed. Appx. 950 (11th Cir. 2007). Mr. Murena has also successfully handled a number of appeals to the U.S. Courts of Appeals for the Third and Eleventh Circuits, as well as to District Courts of Appeals in Florida. *See, e.g., Flemming v. Air Sunshine, Inc.*, 311 F.3d 282 (3d Cir. 2002)

Among his more notable litigation matters, Mr. Murena worked on the legal team that represented class representatives in a class action filed in the billion dollar Mutual Benefits Corporation federal equity receivership arising from the enforcement action styled *SEC v. Mutual Benefits Corp., et al.* (Case No.: 04-60573-CIV-Moreno), brought in the U.S. District Court for the Southern District of Florida (www.mbcreceiver.com). After less than one year of litigation, class representatives and all members of the class recovered \$85 million dollars – a 100% recovery. Mr. Murena also worked on the legal team that represented the estate of a prominent south Florida businessman in the half billion fraudulent transfer action arising from the leveraged buyout of an international airplane leasing company that had filed for Chapter 11 reorganization. He also worked on the legal team that successfully defended a prominent Miami-based international law firm in a half billion legal malpractice case that arose from the collapse of Florida's then-second largest bank.